

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	James Crawford	Art Unit :	2141
Serial No. :	09/597,784	Examiner :	Kristie D Shingles
Filed :	June 19, 2000	Conf. No. :	4992
Title :	DIRECT FILE TRANSFER BETWEEN SUBSCRIBERS OF A COMMUNICATIONS SYSTEM		

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37)**

In communications dated May 4, 2007, the Patent Office indicated that the appeal brief filed on January 26th, 2007 did not comply with 37 CFR 41.37. In particular, the Patent Office indicated that the appeal brief did not contain a statement of the status of all claims because the status of claims 41-44 was not listed, and, moreover, the appeal brief did not contain a concise statement of each ground of rejection presented for review because the applicant's statement "all of the pending claims" did not concisely identify which claims are involved. The Patent Office also indicated that the appendix of claims was not a correct copy of the claims as required by 37 CFR 41.37 because claim 30 included claim language markings. The brief has been modified in response to the above-described issues, and appellants now assert that the appeal brief is in compliance with 37 CFR 41.37.

## BRIEF ON APPEAL

### **(1) Real Party in Interest**

America Online, Inc., the assignee of this application, is the real party in interest.

### **(2) Related Appeals and Interferences**

There are no related appeals or interferences.

### **(3) Status of Claims**

Claims 1-40 and 45-78 are pending in this application, with claims 1, 14, 29-31, 36 and 45 being independent. Claims 41-44 were previously canceled. Claims 1-40 and 45-78 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Donovan (U.S. Publication No. 2004/0193722) in view of van Hoff (U.S. Patent No. 5,761,421) and Miyake (U.S. Patent No. 6,678,341). Appellants appeal the rejections of claims 1-40 and 45-78.

### **(4) Status of Amendments**

An amendment was filed on April 24, 2006 in response to a non-final Office Action mailed on January 23, 2006. The amendment was entered by the Examiner. A final Office Action was mailed on June 26, 2006. Appellants responded to the final Office Action on August 28, 2006. An advisory action was mailed on September 26, 2006. Appellants filed a Notice of Appeal on October 26, 2006.

### **(5) Summary of Claimed Subject Matter**

The claimed subject matter is directed to transferring digital files from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system. The following summarizes each independent claim with reference to the application specification and the drawings.

Independent claim 1 is directed to a method of transferring a file from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. Client 702a is connected to a communications system host, such as, for example, host 704. See page 26, lines 1-5. An instant messaging communications session with the client 702b is established to enable instant messaging communications to be exchanged between the client 702a and the client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. After establishing the instant messaging communications session, a request to establish a direct connection to the client 702b is sent through the host 704 to the client 702b. See, for example, operation 720 of Fig. 7, page 27, lines 3-11. If a user of client 702b accepts the request, a second communications channel is established, in the instant messaging communications session, between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702b that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. A file is transferred over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 14 is directed to a method of transferring a file from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. Client 702b is connected to a communications system host, such as, for example, host 704. See page 26, lines 1-5. An instant messaging communications session with the client 702a is established to enable instant messaging communications to be exchanged between the client 702a and the client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. After establishing the instant messaging communications session, a request to establish a direct connection to the client 702b is received through the host 704 from the client 702a. See, for example, operation 725 of Fig. 7, page 27, lines 3-11. A user of client 702b is able to accept the request from the client 702a. A.

second communications channel is established, in the instant messaging communications session, between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702a that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. A file is received over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 29 is directed to an apparatus for transferring one or more files from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. The apparatus includes the first client, for example, client 702a of Fig. 7 and is configured to connect client 702a to a communications system host, such as, for example, host 704. See page 26, lines 1-5. The apparatus is also configured to establish an instant messaging communications session with client 702b to enable instant messaging communications to be exchanged between client 702a and client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. The apparatus is configured to send, after establishing the instant messaging communications session, a request to the client 702b through the host 704 to establish a direct connection to the client 702b. See, for example, operation 720 of Fig. 7, page 27, lines 3-11. If a user of client 702b accepts the request, the apparatus is configured to establish a second communications channel in the instant messaging communications session, between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702b that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. The apparatus is also configured to transfer a file over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 30 is directed to an apparatus for transferring one or more files from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. The apparatus includes the second

client, for example, client 702a of Fig. 7 and is configured to connect client 702b to a communications system host, such as, for example, host 704. See page 26, lines 1-5. The apparatus is configured to establish an instant messaging communications session with the client 702a to enable instant messaging communications to be exchanged between the client 702a and the client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. The apparatus is configured to receive, after establishing the instant messaging communications session, a request to establish a direct connection to the client 702b through the host 704 from the client 702a. See, for example, operation 725 of Fig. 7, page 27, lines 3-11. The apparatus is configured to enable a user of client 702b to accept the request from the client 702a. The apparatus is also configured to establish, in the instant messaging communications session, a second communications channel between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702a that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. The apparatus is configured to receive a file is received over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 31 is directed to a computer program such as, for example, a client controller of client 702a, stored on a computer readable medium for transferring a file from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. See page 5, lines 4-16, and page 25, lines 9-15. The controller includes instructions for connecting client 702a to a communications system host, such as, for example, host 704. See page 26, lines 1-5. The controller also includes instructions for establishing an instant messaging communications session with client 702b to enable instant messaging communications to be exchanged between client 702a and client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. The controller includes instructions for sending, after establishing the instant messaging communications session, a request to the client 702b through the host 704 to establish a direct connection to the

client 702b. See, for example, operation 720 of Fig. 7, page 27, lines 3-11. The controller includes instructions for establishing, in the instant messaging communications session and if a user of client 702b accepts the request, a second communications channel in the instant messaging communications session, between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702b that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. The controller includes instructions for transferring a file over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 36 is directed to a computer program, such as, for example, a client controller of client 702b, for transferring a file from a first client, such as, for example, client 702a of Fig. 7, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b of Fig. 7, associated with a second subscriber to the communications system. See page 5, lines 4-16, and page 25, lines 9-15. The controller includes instructions for connecting client 702b to a communications system host, such as, for example, host 704. See page 26, lines 1-5. The controller includes instructions for establishing an instant messaging communications session with the client 702a to enable instant messaging communications to be exchanged between the client 702a and the client 702b over a first communications channel. See page 26, line 1 to page 27, line 2. The first communications channel passes through the host 704. See page 26, lines 1-8. The controller includes instructions for receiving, after establishing the instant messaging communications session, a request through the host 704 from the client 702a to establish a direct connection to the client 702b. See, for example, operation 725 of Fig. 7, page 27, lines 3-11. The controller includes instructions for enabling a user of client 702b to accept the request from the client 702a. The controller also includes instructions for establishing, in the instant messaging communications session, a second communications channel between client 702a and 702b to enable files to be directly transferred between client 702a and 702b. The second communications channel consists of a direct connection to the client 702a that bypasses the host 704. See, for example, operations 725-770 of Fig. 7 and page 27, line 12 to page 28, line 3. The controller additionally includes instructions

for receiving a file over the second communications channel. See, for example, operations 920-925 of Fig. 9 and page 30, lines 3-11.

Independent claim 45 is directed to a user interface, such as, for example, the user interface shown in Fig. 12, configured to enable acceptance or rejection of a file transfer from a first client, such as, for example, client 702a, associated with a first subscriber to a communications system to a second client, such as, for example, client 702b, associated with a second subscriber to the communications system. The user interface includes a first graphical user interface element, such as, for example, the start dialog box 1200 of Fig. 12, structured and arranged to notify an operator of the client 702b of a request by the client 702a to establish a direct connection to the client 702b. See Fig. 12, page 32, lines 4-7. The request is communicated to client 702b by a communications system host, such as, for example, host 704, after establishment of an instant messaging communications session with the client 702a and the direct connection bypassing the host 704. The instant messaging communications session enables instant messaging communications to be exchanged between the client 702a and the client 702b over a first communications channel that passes through the host 704. See Fig. 7, page 26, line 1 to page 27, line 11. The user interface also includes a second graphical user interface element, such as, for example, the connect button 1210 of the start dialog box 1200, structured and arranged to enable an operator of the client 702b to authorize the establishment of the direct connection and a file transfer over the direct connection in the instant messaging communications session.

#### **(6) Grounds of Rejection to be Reviewed on Appeal**

Claims 1-40 and 45-78 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Donovan (U.S. Publication No. 2004/0193722) in view of van Hoff (U.S. Patent No. 5,761,421) and Miyake (U.S. Patent No. 6,678,341).

#### **(7) Argument**

**(a) Independent claims 1, 29, and 31, and their dependent claims, are not obvious over Donovan, van Hoff, and Miyake**

Independent claims 1, 29 and 31 each recite, among other features, "establishing an instant messaging communications session with the second client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host" (emphasis added), "after establishing the instant messaging communications session, sending, through the communications system host, a request to the second client to establish a direct connection to the second client" (emphasis added), and "**if a user of the second client accepts the request, establishing, in the instant messaging communications session, a second communications channel** between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the second client that bypasses the communications system host" (emphasis added). Appellants request reversal of the rejection of claims 1, 29 and 31, and their dependent claims, because neither Donovan, van Hoff, Miyake any proper combination of the three describes or suggests establishing an instant messaging communications session to enable instant messaging communications to be exchanged between a first and a second client system over a first communications channel that passes through a communications system host and, after the instant messaging communications session has been established, sending a request to a second client system through the communications system host which, **if accepted by a user of the second client system**, establishes, in the same instant messaging communications session, a second communications channel for transferring files that consists of a direct connection to the second client system.

As stated in the response to the Office Action of January 23, 2006, Donovan describes a universal instant messaging system for the Internet. Donovan's system describes a first user (e.g., "Bill") initiating an instant messaging communications session for sending an instant message to a second user (e.g., "Ted") by clicking on the second user's name in a window 50. See paragraph 0033. In response to the first user clicking on the second user's name, an IM manager 34 of the first user sends a message to a SP 18 of the second user (i.e., the instant messaging service provider of the second user) requesting a connection to the IM manager 38 of the second user. See paragraph 0034. In response to receiving the request, the SP 18 may display to the second user a window indicating that the first user is requesting to contact the



second user via the IM system and prompting the second user to respond to the request. See paragraph 0034. If the second user accepts the request, an instant messaging communication session is initiated over a connection that is established between the PCs of the two users.

If a peer-to-peer connection is available between the PCs of the two users, the instant messaging communication session is initiated by the IM manager 34 using a direct peer-to-peer connection between the first user PC and the second user PC over which the two users may directly exchange instant messages and files. See paragraphs 0035-37. If a peer-to-peer connection is not available between the PCs of the two users, the instant messaging communication session is initiated using a relay connection that is established between SP 14 of the first user and SP 18 of the second user over which the two users may exchange instant messages and files. See paragraphs 0035-37.

Thus, Donovan describes the acceptance of the request by the second user as a prerequisite for establishing an instant messaging communications session for enabling instant messages to be exchanged between the users. After the request has been accepted by the second user, the instant messaging communications session is initiated over a direct peer-to-peer connection or over a relay connection, depending on what type of connection is available.

Notably, the second user is not described as being able to choose, accept or reject a particular type of connection (i.e., a peer-to-peer connection or a relay connection) over which the instant messaging communication session will take place. Rather, the type of connection is determined by factors (in this case, the availability of the peer-to-peer connection as dictated by undisclosed system constraints) other than the input of the user of the PC to which the connection will be made. Moreover, once the instant messaging communication session has been initiated, no further connection requests are exchanged between the users. Accordingly, Donovan does not describe or suggest establishing an instant messaging communications session to enable instant messaging communications to be exchanged between a first and a second client system over a first communications channel that passes through a communications system host and, after the instant messaging communications session has been established, sending a request to a second client system through the communications system host which, if accepted by a user of the second client system, establishes, in the same instant messaging communications session,

a second communications channel for transferring files that consists of a direct connection to the second client system.

Miyake does not remedy the failure of Donovan to describe or suggest this feature. Miyake describes a multi-mode two-way pager system that enables two-way radio communication between two pager terminals 18a and 18b through a base station 10 and also enables peer-to-peer communication between the two pager terminals 18a and 18b. See col. 5, lines 61-65. Miyake describes a user of the pager terminal 18a being able to start a peer-to-peer communication with a user of the pager 18b. See col. 7, lines 42-46.

In the first two embodiments described by Miyake, once the user of pager terminal 18a attempts to start a peer-to-peer communication with the user of pager terminal 18b, the peer-to-peer communications are assumed to always be able to be executed. See col. 9, lines 5 and 6. In the third through sixth embodiments, however, once the user of pager terminal 18a attempts to start a peer-to-peer communication with the user of pager terminal 18b, the physical positions and surrounding geographic conditions of the pager terminals 18a and 18b dictate whether or not a peer-to-peer connection or, alternatively, a connection through the base station 10 will be established to enable communications between the two users. See col. 9, lines 6-12; col. 10, lines 14-17 and 31-37; col. 11, lines 15-17.

Notably, Miyake suffers from the exact same deficiency as Donovan. Like Donovan's second user, the user of pager terminal 18b is not described as being able to choose, accept or reject a particular type of connection (i.e., a peer-to-peer connection or a connection through the base station 10) over which the communication session will take place. Rather, the type of connection is determined automatically by factors (in this case, physical positions and surrounding geographic conditions) other than the input of the user of the pager terminal 18b to which the connection will be made. Moreover, once the communication session has been initiated, no subsequent connection requests are exchanged between the users for acceptance or rejection by the users. Rather, the subsequent connection requests are exchanged between the pager terminals 18a, 18b and the base station 10 for acceptance or rejection by the pager terminals 18a, 18b, and the base station 10, not by the users of the pager terminals 18a, 18b. See col. 9, line 19 to col. 10, line 12. Accordingly, Miyake, like Donovan, also does not describe or suggest establishing an instant messaging communications session to enable instant messaging

communications to be exchanged between a first and a second client system over a first communications channel that passes through a communications system host and, after the instant messaging communications session has been established, sending a request to a second client system through the communications system host which, if accepted by a user of the second client system, establishes, in the same instant messaging communications session, a second communications channel for transferring files that consists of a direct connection to the second client system.

Van Hoff describes a system and method for establishing a peer-to-peer communication connection between computer programs from the same security domain. Van Hoff does not describe or suggest user acceptance or rejection of peer-to-peer communication requests; much less describe or suggest the above-recited feature. Rather, van Hoff describes two computers exchanging peer-to-peer communication requests, the requests being accepted or rejected by the computers themselves, not by the users of the computers.

The Examiner responded to these arguments in an advisory action mailed on September 26, 2006:

Applicant argues, in substance, against the combination of the prior art of record: Donovan (2004/0193722), van Hoff (5,761,421), Miyake (6,678,341) to teach the limitations of the independent claims.

In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d, 413, 208 USPQ 871 (CCPA 1981).

Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Donovan's teaching of establishing an instant messaging session between two users is modified by van Hoff and Miyake who teach that a user may accept or reject forming a direct peer-to-peer communication with another user. Miyake further teaches user's communicating via base stations and if one user requests direct peer-to-peer communication with another user and the another user rejects the direct peer-to-peer connection request, then a two-way connection is established instead wherein the users remain communicating via a base station (col. 5, lines 60-65, col. 10, lines 3-12). The combination of Donovan, van Hoff and Miyake therefore achieves the scope of the claimed invention wherein there exists an instant messaging session over a first channel and a requested direct peer-to-peer connection via a second channel, wherein the direct

peer-to-peer connection may be accepted or rejected by a user. Applicant's arguments are therefore non-persuasive and the rejection under the prior art is maintained.

See page 2 of Advisory Action of September 26, 2006. As best understood, the Examiner apparently is taking issue with the arguments submitted by appellants against Donovan, Miyake, and Van Hoff as improperly attacking each reference individually. Appellants, however, submit that such arguments are entirely appropriate against an obviousness rejection when each of the cited references fails to describe or suggest the exact same feature, and, therefore, their combination, assuming, *arguendo*, that the combination would be proper, also fails to describe or suggest at least this feature.

The Examiner also asserts that van Hoff and Miyake contemplate user acceptance of peer-to-peer connection requests and that Miyake teaches that if a user rejects a direct peer-to-peer connection request from another user, a two-way connection is established instead wherein the users remain communicating via a basestation. The Examiner refers to col. 5, lines 60-65 and col. 10, lines 3-12 in support of this contention. Appellant's entirely disagree with the Examiner's characterization of the teachings of van Hoff and Miyake. As stated above, van Hoff describes two computers exchanging peer-to-peer communication requests which are accepted or rejected by the computers, not by the users of the computers. Contrary to the Examiner's assertion and as stated above, neither the cited portion nor any portion of Miyake describes or suggests that the user of pager terminal 18b is able to accept or reject a peer-to-peer connection request to thereby dictate whether communications will be sent between the pager terminals 18a and 18b directly or through the base station 10.

For at least these reasons, appellants request reversal of the rejection of claims 1, 29 and 31, and their dependent claims 2-13, 32-35, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71, 73, 75 and 77.

**(b) Independent claims 14, 30, and 36, and their dependent claims, are not obvious over Donovan, van Hoff, and Miyake**

Independent claims 14, 30 and 36 each recite, among other features, "establishing an instant messaging communications session with the first client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications

system host" (emphasis added), "after establishing the instant messaging communications session, receiving, through the communications system host, a request to the second client to establish a direct connection to the second client" (emphasis added), "enabling a user to accept the request from the first client" (emphasis added), and "establishing, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the first client that bypasses the communications system host" (emphasis added). For at least the reasons described above, appellants request reversal of the rejection of claims 14, 30 and 36, and their dependent claims 15-28, 37-40, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76 and 78 because neither Donovan, van Hoff, Miyake, nor any proper combination of the three describes or suggests the recited features.

**(b) Independent claim 45, and its dependent claims, are not obvious over Donovan, van Hoff, and Miyake**

Independent claim 45 recites, "a first graphical user interface element structured and arranged to notify an operator of the second client of a request by the first client to establish a direct connection to the second client, the request being communicated to the second client by a communications system host after establishment of an instant messaging communications session with the first client and the direct connection bypassing the communications system host, the instant messaging communications session enabling instant messaging communications to be exchanged between the first client and the second client over a first communications channel that passes through the communications system host; and a second graphical user interface element structured and arranged to **enable an operator of the second client to authorize the establishment of the direct connection** and a file transfer over the direct connection in the instant messaging communications session" (emphasis added). For at least the reasons described above, appellants request reversal of the rejection of claim 45 and its dependent claims 46-52 because neither Donovan, van Hoff, Miyake, nor any proper combination of the three describes or suggests the recited features.

Applicant : James Crawford  
Serial No. : 09/597,784  
Filed : June 19, 2000  
Page : 14 of 28

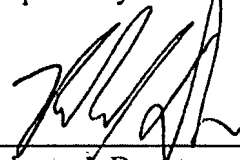
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8/6/07

Respectfully submitted,



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### **Appendix of Claims**

1. A method of transferring a file from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, the method comprising:

connecting the first client to a communications system host;

establishing an instant messaging communications session with the second client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host,

after establishing the instant messaging communications session, sending, through the communications system host, a request to the second client to establish a direct connection to the second client;

if a user of the second client accepts the request, establishing, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the second client that bypasses the communications system host; and

transferring a file over the second communications channel.

2. The method of claim 1, wherein the request is authenticated by the communications system host.

3. The method of claim 1, wherein the second client accepts the request based on indicated preferences of the second subscriber.

4. The method of claim 1, wherein the direct connection is initiated by the second client.

5. The method of claim 1, wherein the direct connection to the second client is established using an IP address of the second client.

6. The method of claim 1, further comprising displaying a graphical user interface indicating that a direct connection to the second client is established.

7. The method of claim 1, wherein the communications system host comprises an instant messaging host.

8. The method of claim 1, wherein the file comprises a data file.

9. The method of claim 1, wherein the file comprises a text file.

10. The method of claim 1, wherein the file comprises a graphics file.

11. The method of claim 1, wherein the file comprises an audio file.

12. The method of claim 1, wherein the file comprises a video file.

13. The method of claim 1, wherein the direct connection is a socket connection.

14. A method of transferring a file from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, the method comprising:

connecting the second client to a communications system host;

establishing an instant messaging communications session with the first client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host,

after establishing the instant messaging communications session, receiving, through the communications system host, a request from the first client to establish a direct connection;

enabling a user to accept the request from the first client;



establishing, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the first client that bypasses the communications system host; and

receiving a file over the second communications channel.

15. The method of claim 14, wherein the request is authenticated by the communications system host.

16. The method of claim 14, wherein accepting the request is based on indicated preferences of the second subscriber.

17. The method of claim 14, further comprising initiating the direct connection.

18. The method of claim 14, wherein the direct connection is established by the first client using an IP address of the second client.

19. The method of claim 14, further comprising displaying a graphical user interface indicating that a direct connection to the first client is established.

20. The method of claim 14, wherein the communications system host comprises an instant messaging host.

21. The method of claim 14, wherein the file comprises a data file.

22. The method of claim 14, wherein the file comprises a text file.

23. The method of claim 14, wherein the file comprises a graphics file.

24. The method of claim 14, wherein the file comprises an audio file.

25. The method of claim 14, wherein the file comprises a video file.

26. The method of claim 14, further comprising receiving an indication that the first subscriber using the first client is composing a message.

27. The method of claim 26, further comprising receiving the message composed by the first subscriber from the first client.

28. The method of claim 14, wherein the direct connection is a socket connection.

29. An apparatus for transferring one or more files from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, the apparatus comprising a first client configured to:

- connect the first client to a communications system host;
- establish an instant messaging communications session with the second client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host,
- after establishing the instant messaging communications session, send, through the communications system host, a request to the second client to establish a direct connection to the second client;
- if a user of the second client accepts the request, establish, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the second client that bypasses the communications system host; and
- transfer a file over the second communications channel.

30. An apparatus for transferring one or more files from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, the apparatus comprising a second client configured to:

- connect the second client to a communications system host;
- establish an instant messaging communications session with the first client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host,

- after establishing the instant messaging communications session, receive, through the communications system host, a request from the first client to establish a direct connection;

- enable a user to accept the request from the first client;

- establish, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the first client that bypasses the communications system host;
- and

- receive a file over the second communications channel.

31. A computer program, stored on a computer readable medium for transferring a file from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, comprising instructions for:

- connecting the first client to a communications system host;

- establishing an instant messaging communications session with the second client to enable instant messaging communications to be exchanged between the first client and the second client over a first communications channel, the first communications channel passing through the communications system host,

after establishing the instant messaging communications session, sending, through the communications system host, a request to the second client to establish a direct connection to the second client;

if a user of the second client accepts the request, establishing, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the second client that bypasses the communications system host; and  
transferring a file over the second communications channel.

32. The computer program of claim 31 wherein the computer readable medium comprises a disc.

33. The computer program of claim 31 wherein the computer readable medium comprises a client device.

34. The computer program of claim 31 wherein the computer readable medium comprises a host device.

35. The computer program of claim 31 wherein the computer readable medium comprises a propagated signal.

36. A computer program, stored on a computer readable medium for transferring a file from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, comprising instructions for:

connecting the second client to a communications system host;  
establishing an instant messaging communications session with the first client to enable instant messaging communications to be exchanged between the first client and the second client

over a first communications channel, the first communications channel passing through the communications system host,

after establishing the instant messaging communications session, receiving, through the communications system host, a request from the first client to establish a direct connection;

enabling a user to accept the request from the first client;

establishing, in the instant messaging communications session, a second communications channel between the first client and the second client to enable files to be directly transferred between the first client and the second client, wherein the second communications channel consists of a direct connection to the first client that bypasses the communications system host; and

receiving a file over the the second communications channel.

37. The computer program of claim 36 wherein the computer readable medium comprises a disc.

38. The computer program of claim 36 wherein the computer readable medium comprises a client device.

39. The computer program of claim 36 wherein the computer readable medium comprises a host device.

40. The computer program of claim 36 wherein the computer readable medium is a propagated signal.

45. A user interface configured to enable to acceptance or rejection of a file transfer from a first client associated with a first subscriber to a communications system to a second client associated with a second subscriber to the communications system, the user interface comprising:

a first graphical user interface element structured and arranged to notify an operator of the second client of a request by the first client to establish a direct connection to the second

client, the request being communicated to the second client by a communications system host after establishment of an instant messaging communications session with the first client and the direct connection bypassing the communications system host, the instant messaging communications session enabling instant messaging communications to be exchanged between the first client and the second client over a first communications channel that passes through the communications system host; and

a second graphical user interface element structured and arranged to enable an operator of the second client to authorize the establishment of the direct connection and a file transfer over the direct connection in the instant messaging communications session.

46. The user interface of claim 45 wherein the first graphical user interface element is a dialog box.

47. The user interface of claim 45 wherein the second graphical user interface element includes a set of sub elements selectable by the recipient to authorize or reject establishment of the direct connection.

48. The user interface of claim 47 wherein the sub elements are option buttons.

49. The user interface of claim 47 wherein the sub elements include a sub element selectable to authorize the direct connection.

50. The user interface of claim 47 wherein the sub elements include a sub element selectable to reject the direct connection.

51. The user interface of claim 47 wherein the sub elements include a sub element selectable to ignore the request.

52. The user interface of claim 47 wherein the sub elements include a sub element selectable to warn the first client not to send future requests for a direct connection to the second client.

53. The method of claim 1 wherein connecting the first client to a communications system host includes connecting from the first client to the communications system host.

54. The method of claim 14 wherein connecting the second client to a communications system host includes connecting from the second client to the communications system host.

55. The apparatus of claim 29 wherein the first client is configured to connect to a communications system host by connecting from the first client to the communications system host.

56. The apparatus of claim 30 wherein the second client is configured to connect to a communications system host by connecting from the second client to the communications system host.

57. The computer program of claim 31 wherein the instructions for connecting the first client to a communications system host include instructions for connecting from the first client to the communications system host.

58. The computer program of claim 36 wherein the instructions for connecting the second client to a communications system host include instructions for connecting from the second client to the communications system host.

59. The method of claim 1 further comprising enabling the user to perceive the request and monitoring a response by the user to the request.

60. The method of claim 14 further comprising enabling the user to perceive the request and monitoring a response by the user to the request.

61. The apparatus of claim 29 wherein the first client is further configured to enable the user to perceive the request and to monitor a response by the user to the request.

62. The apparatus of claim 30 wherein the second client is further configured to enable the user to perceive the request and to monitor a response by the user to the request.

63. The computer program of claim 31 further comprising instructions for enabling the user to perceive the request and monitoring a response by the user to the request.

64. The computer program of claim 36 further comprising instructions for enabling the user to perceive the request and monitoring a response by the user to the request.

65. The method of claim 59, wherein enabling the user to perceive the request comprises enabling the request to be visually presented in a graphical user interface to the user of the second client.

66. The method of claim 60, wherein enabling the user to perceive the request comprises enabling the request to be visually presented in a graphical user interface to the user of the second client.

67. The apparatus of claim 61, wherein the first client being configured to enable the user to perceive the request comprises the first client being configured to enable the second client to visually present the request in a graphical user interface to the user of the second client.

68. The apparatus of claim 62, wherein the second client being configured to enable the user to perceive the request comprises the second client being configured to enable the request to be visually presented in a graphical user interface to the user of the second client.



69. The computer program of claim 63, wherein the instructions for enabling the user to perceive the request comprise instructions for enabling the second client to visually present the request in a graphical user interface to the user of the second client.

70. The computer program of claim 64, wherein the instructions for enabling the user to perceive the request comprise instructions for enabling the request to be visually presented in a graphical user interface to the user of the second client.

71. The method of claim 1, further comprising sending an instant message to the second client through the first communications channel during the instant messaging communications session.

72. The method of claim 14, further comprising receiving an instant message from the first client through the first communications channel during the instant messaging communications session.

73. The computer program of claim 31, further comprising instructions for sending an instant message to the second client through the first communications channel during the instant messaging communications session.

74. The computer program of claim 36, further comprising instructions for receiving an instant message from the first client through the first communications channel during the instant messaging communications session.

75. The method of claim 1, wherein the user of the second client manually accepts the request.

76. The method of claim 14, wherein enabling the user to accept the request comprises enabling the user to manually accept the request.

77. The computer program of claim 31, wherein the user of the second client manually accepts the request.

78. The computer program of claim 36, wherein the instructions for enabling the user to accept the request from the first client comprise instructions for enabling the user to manually accept the request from the first client.

Applicant : James Crawford  
Serial No. : 09/597,784  
Filed : June 19, 2000  
Page : 27 of 28

Attorney's Docket No.: 06975-  
097001 / Communications 21

### **Evidence Appendix**

None

Applicant : James Crawford  
Serial No. : 09/597,784  
Filed : June 19, 2000  
Page : 28 of 28

Attorney's Docket No.: 06975-  
097001 / Communications 21

### **Related Proceedings Appendix**

None